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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/695,228	10/25/2000	Paul D. Marko	40554	2889

7590 02/09/2007
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EXAMINER

TRAN, HAI V

ART UNIT	PAPER NUMBER
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2623

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/09/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/695,228

Applicant(s)

MARKO ET AL.

Examiner

Hai Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11/16/2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 3 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-2, 4-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 11/16/2006 have been fully considered but they are not persuasive.

Claims 1, 4-5, 9, 12, 17 and 18, Applicant does not distinctly and specifically point out errors in the Examiner Office Action, i.e., point out how Applicant claim's limitations distinguish from the references applied. Applicant merely gives a narrative of Foster's reference rather than focus on how/which limitation in Applicant's claims is not met by Foster. As such, the Examiner maintains the rejection.

Claims 13-15, Applicant argues, "the STC of Foster et al therefore does not suggest segment codes as claimed."

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., **segment codes**) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Upon consideration, a new ground(s) of rejection is set forth below.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1, 4-5, 9, 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Foster et al (6,801,536) in view of Hiroshima et al. (US 5801781).

Regarding Claim 1, Foster shows a receiver in a digital broadcast system comprising a memory device for storing content transmitted in a broadcast signal (fig. 1 item 150, col. 4 lines 10-20, HDDI, the content comprising data files, each file being partitioned into segments that are in the broadcast signal (col. 3 lines 4-15, col. 4 lines 60-67, col. 5 lines 43-67, packets), the signal being provided with at least one header comprising information indicating the number of segments that constitute one of the files, and information identifying the segments (col. 5, lines 40-67, col. 6 lines 38-64, type of data and block size). Foster further shows a reception device for receiving the transmitted broadcast signal and processing the signal to obtain the content including segments corresponding to the data files (see fig. 1), and a processing device connected to the memory device and reception device and being programmable to use at least one header in the transmitted broadcast signal to determine the size of (to allocate) at least one section in the memory for storing the

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data file (fig. 1, host processor and memory controller, col. 6 lines 50-65; col. 9, lines 1-15, FAT on storage medium), storing the segments of the data file in the allocated section (fig. 1, host processor and memory controller, col. 6 lines 50-65, col. 9 lines 1-15, FAT on storage medium) and to monitor the progress of the allocated section (col. 7 lines 1-47, using interrupts and time stamps to fill buffers that send data to the HDD).

Foster further discloses the a buffer size of 512 bytes of audio and video is defined by the MPEG-2 standard; however, the size of the buffers are essentially arbitrary and the particular sizes discussed and illustrated should be regarded as exemplary (Col. 5, lines 32-42). As such, Foster does not clearly disclose the use of the header comprising data to indicate how much of the memory device need to be allocated to store the data file.

Hiroshima discloses the use of the packet header data to indicate how much of the memory device need to be allocated to store the data file (see Fig. 6, el. 122; Col. 8, lines 32-45) for the purpose of preventing data loss by allocating corresponding memory size as needed. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Foster with Hiroshima for having a buffer size with a packet header so to guarantee neither overflow nor underflow of the buffers.

Regarding Claim 4, as discussed Foster shows that each segment has a header that identifies the total number of segments (col. 7 lines 12-18, unitary header

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provided for the total data block size) and an identification code (STC) (col. 8 lines 60-à7, col. 9 lines 1-13, using look up table to identify the STC in storage location for playback). The STC code in the header indicates the order in the file (col. 7 lines 5-35, col. 9 lines 1-23, STC in header).

Regarding Claim 5, Foster (col. 3 lines 5-15, col. 4 lines 38-55, col. 5 lines 40-67, col. 6 lines 38-64, col. 7 lines 12-18, type of data and block size, unitary header provides for the block size) shows that the header indicates the size of the data that needs to be stored. Furthermore, a block size buffer, that uses the total block size, is used to 511 the memory (col. 7 lines 1-18, block size buffer and total data block size in header).

Regarding Claim 9, Foster further shows that the header file contains identification codes for the segments that indicate the order the segments are to appear in playback (Col. 8 lines 21-67; Col. 9, lines 1-23, STC used for synchronization of playback), and the ability to determine if the segments have been stored (col. 8 lines 15-35, using a buffer that continually adds data until %11, then stores the data together, effectively determining if and when data Should be stored).

Regarding Claim 12, Foster shows storage for storing a first portion of complete data files (col. 4 lines 10-25, HDD) and storage for second portions that are being received, or a buffer (col. 6 lines 38-65, col. 3 lines 1 - 15, storing data in buffer prior to storage on hard disk).

Regarding Claim 17, as analyzed with respect to claim 1, Foster further shows a method of implementing a file transfer from a broadcaster to a receiver in a digital system comprising receiving a broadcast signal having content comprising data files, each file being partitioned into segments that are in the broadcast signal (col. 3 lines 4-15, col. 4 lines 60-67, col. 5 lines 43-67, packets), the signal being provided with at least one header comprising information indicating information identifying the segments (col. 5 lines 40-67, col. 6 lines 38-64, type of data and block size). Foster further shows that after the buffer is full, the data is selected for storing on the hard disk (col. 7 lines 1-18, fixed size total data block is stored), storing the segments of the data file in the allocated section (fig. 1, host processor and memory controller, col. 6 lines 50-65, col. 9 lines 1 - 15, FAT on storage medium), allocating at least one section in the memory for storing the data file (fig. 1, host processor and memory controller, col. 6 lines 50-65, col. 9 lines 1-15, FAT on storage medium), analyzing the information in the header to identify segments (col. 5 lines 44-67, analyzing header), and storing segments in the portion of the memory corresponding to the file (col. 6 lines 38-65, storing data according to STC so data will be stored in correct sequence).

Regarding Claim 18, Foster in view of Hiroshima shows monitoring what data files have not been received and stored and stores them accordingly ability to determine if the segments have been stored (Foster; Col. 8 lines 15-35, using a buffer that continually adds data until full, then stores the data together, effectively

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determining if and when data should be stored). By using this buffer, Foster is able to ensure data is fully received before storing the data onto the storage device.

2. Claims 2, 10 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Foster et al (6,801,536) in view of Hiroshima et al. (US 5801781) and further view of Rieger, III (5,732,324).

Regarding Claim 2, Foster in view of Hiroshima shows an output device connected to the processing device (fig. 1 item 190). Foster in view of Hiroshima fails to show generating an alert message when the segments of the data file have been stored in memory.

Rieger shows alerting the user on an output device when data segments have been stored in memory (col. 5 lines 40-51). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Foster in view of Hiroshima with the alert message, as taught by Rieger, so a user would be aware when data had been downloaded to the receiver.

Regarding Claim 10, Foster in view of Hiroshima fails to show that the segments are rebroadcast and the system determines what data has been stored, subsequently discarding repeated data and saving new data.

Rieger shows that the segments are rebroadcast and the system determines what data has been stored; subsequently discarding repeated data and saving new

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data (col. 4 lines 25-43, 55-65, using identification information to determine repeated signals and preventing storage). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Foster in view of Hiroshima with the ability to ignore repeated signals, as taught by Rieger, so that the user would not store more than one copy of the data.

Regarding Claim 19, Foster in view of Hiroshima does not clearly to show that the segments are rebroadcast and the system determines what data has been stored, subsequently discarding repeated data and saving new data.

Rieger shows that the segments are rebroadcast and the system determines what data has been stored; subsequently discarding repeated data and saving new data (col. 4 lines 25-43, 55-65, using identification information to determine repeated signals and preventing storage). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Foster in view of Hiroshima with the ability to ignore repeated signals, as taught by Rieger, so that the user would not store more than one copy of the data.

3. Claims 6-7 and 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Foster et al (6,801,536) in view of Hiroshima et al. (US 5801781) and further in view of Morrison (5,815,671).

Regarding Claim 6, Foster in view of Hiroshima fails to show a data field comprising an expiration data for the data file.

Morrison shows message data codes that determine different aspects of the sent data (col. 6 lines 14-67, col. 7 lines 1-65). Included in this data is time period data, which controls the receiving system to stop displaying certain data after a certain time period, effectively expiring the data (col. 7, lines 49-65, time period). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Foster in view of Hiroshima with the ability to include auxiliary data that could express expiration time, as taught by Morrison, so the system would have more parameters to further control the display of data.

Regarding Claim 7, Foster in view of Hiroshima fails to show a message identification code.

Morrison shows that each message is assigned a message identification code to indicate which of a plurality of receivers are to receive the message (col. 6 lines 14-67, col. 7 lines 1-65) and the processing device being able to store a message with a certain code and discard other messages with different codes (col. 7 lines 15-46, using certain data and discarding others based on user preferences). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Foster in view of Hiroshima with the ability to include message code data that could express more detailed data about a broadcast, as taught by Morrison, so the system would have more parameters to further control the display of data.

Regarding Claim 20, Foster in view of Hiroshima fails to show a rebroadcast schedule.

Morrison shows that rebroadcasts of data files are scheduled throughout a day (col. 6 lines 14-40). Furthermore, Morrison shows that the system operates the receiver to automatically tune to the rebroadcast signal, extracts elements which have not been stored, and storing these segments (col. 6 lines 14-40). Morrison shows a system that re-broadcasts data several times a day. If the system has not stored a rebroadcast file, this gives the receiver the opportunity to store the file. Furthermore, although not specifically stated, it is nonetheless inherent that a storage device, upon receiving any data, is always a "percentage full". It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Foster in view of Hiroshima with the ability to rebroadcast and store certain files, as taught by Morrison, so that the system would ensure the receiver downloaded necessary tiles.

Regarding Claim 21, Foster in view of Hiroshima fails to show a message identification code. Morrison shows that each message is assigned a message identification code to indicate which of a plurality of receivers are to receive the message (col. 6 lines 14-67, col. 7 lines 1-65) and the processing device being able to store a message with a certain code and discard other messages with different codes (col. 7 lines 15-46, using certain data and discarding others based on user preferences). It would have been obvious to one of ordinary skill in the art at the

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time the invention was made to modify Foster in view of Hiroshima with the ability to include message code data that could express more detailed data about a broadcast as in Morrison so the system would have more parameters to further control the display of data.

4. Claims 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Foster et al (6,801,536) in view of Hiroshima et al. (US 5801781) and further in view of Morrison (5,815,671) and further in view of Wolzien (2003/0212996).

Regarding Claim 8, Foster in view of Hiroshima and Morrison fails to show that the code can correspond to a model of a car.

Wolzien shows code identification information that identifies a type of car the user is driving (page 7-8 section 58). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Foster in view of Hiroshima and Morrison with the ability to use car type data as in Wolzien so that information about a particular vehicle could be relayed to the user.

5. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Foster et al (6,801,536) in view of Hiroshima et al. (US 5801781) and further view of Rieger, III (5,732,324) and further in view of Morrison (5,81 5,671).

Regarding Claim 11, Foster in view of Hiroshima and Rieger fails to show automatically operating the receiver at a selected time of day to receive and store segments that have not been stored yet.

Morrison shows automatically operating the receiver at a selected time of day to receive and store segments that have not been stored yet (col.6 lines 25-42, transmitted at a number of convenient times throughout 24 hour day, as well as repeated transmission). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Foster in view of Hiroshima and Rieger with the ability to repeatedly send data at different times as in Morrison so that the user was ensured the data was received and that the receiving would not interrupt operation of regular playback.

6. Claims 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Foster et al (6,801,536) in view of Morrison (5,815,671).

Regarding Claim 13, Foster shows a method of transmitting content files comprising partitioning the files into segments (fig. 2 data blocks), assigning the data files with identification codes for the segments that indicate the order the segments are to appear in playback (col. 8 lines 21-67, col. 9 lines 1-23, STC used for synchronization of playback, using look up table to determine the STC of data in memory), including the segments in the broadcast signal (col. 3 lines 4-15, col. 4 lines 60-67, col. 5 lines 43-67, packets), and providing each segment with a header that identifies the total number of segments and an identification code (STC).. The

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STC code in the header indicates the order in the file (col. 7 lines 5-35, col. 9 lines 1-23, STC in header, using look up table to determine the STC of data in memory).

Foster fails to show a message identification code.

Morrison shows that each message is assigned a message identification code to indicate which of a plurality of receivers are to receive the message (col. 6 lines 14-67, col. 7 lines 1-65) and the processing device being able to store a message with a certain code and discard other messages with different codes (col. 7 lines 15-46, using certain data and discarding others based on user preferences). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Foster with the ability to include message code data that could express more detailed data about a broadcast as in Morrison so the system would have more parameters to further control the display of data.

Regarding Claim 14, Morrison further shows re-broadcasting data segments (col. 6 lines 25-40, repeated transmission).

Regarding Claim 15, Morrison shows message data codes that determine different aspects of the sent data (col. 6 lines 14-67, col. 7 lines 1-65). Included in this data is time period data, which controls the receiving system to stop displaying certain data after a certain time period, effectively expiring the data (col. 7 lines 49-65, time period).

7. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Foster et al (6,801,536) in view of Morrison (5,815,671) and further in view of Wolzien (2003/0212996).

Regarding Claim 16, Foster in view of Morrison fails to show that the code can correspond to a model of a car.

Wolzien shows code identification information that identifies a type of car the user is driving (page 7-8 section 58). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Foster in view of Morrison with the ability to use car type data as in Wolzien so that information about a particular vehicle could be relayed to the user.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai Tran whose telephone number is (571) 272-7305.

The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S. Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HT:ht
02/02/2007


HAITRAN
PRIMARY EXAMINER